

Message Text

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47

ACTION IO-14

INFO OCT-01 ISO-00 AF-10 ARA-16 EA-11 EUR-25 NEA-14 RSC-01

AID-20 IOE-00 SS-20 SP-03 L-03 H-03 NSC-07 CIAE-00

INR-11 NSAE-00 PA-04 USIA-15 PRS-01 EB-11 TRSE-00

OIC-04 OMB-01 DRC-01 /196 W

----- 048753

P R 191228Z JUL 74

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 7194

INFO USMISSION USUN NEW YORK

UNCLAS GENEVA 4607

EO 11652: N/A

TAGS: ECOSOC, UN, EGEN

SUBJ: 57TH ECOSOC: CONSIDERATION BY ECOSOC OF

EMINENT PERSONS REPORT

BEGIN SUMMARY: DISCUSSION OF REPORT OF EMINENT PERSONS GOT OFF TO SLOW START JULY 18, CONCENTRATING ON PROCEDURAL ISSUES. U.S. AND CANADA INTRODUCED THEIR RE-SOLUTIONS. END SUMMARY.

1. JHA (INDIA), CHAIRMAN OF GROUP OF EMINENT PERSONS, INTRODUCED REPORT OF GROUP. SAID IT WAS NEITHER AN INDICTMENT NOR A JUDGMENT BUT AN EFFORT TO CONTRIBUTE TO A NEW CLIMATE FOR MNC OPERATIONS ON BASIS OF MUTUAL CONFIDENCE BETWEEN MNC'S AND GOVERNMENTS. HE MAINTAINED THAT GROUP WAS FUNDAMENTALLY AGREED ON ITS REPORT, DESPITE COMMENTS OF SOME MEMBERS.

2. CANADIAN DEL STATED THAT ECON COMMITTEE SHOULD DISCUSS MACHINERY PROPOSED BY REPORT RATHER THAN ITS SUBSTANCE AND NEVERTHELESS PROCEEDED TO SET OUT ITS SUBSTANTIVE VIEWS. UN'S CONCERN WITH MNCS SHOULD NOT BE LIMITED TO DEVELOPING COUNTRIES. GENERALLY THE REPORT

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WAS UNCLEAR AS TO WHAT IS FACT AND WHAT IS CONJECTURE.

ON ITS PARTICULAR RECOMMENDATIONS, TAKING THEM IN ORDER IN WHICH THEY OCCUR WITHOUT NUMBERING IN THE REPORT, CANADIAN REP STATED: RECO A, P. 19: NEITHER FOREIGN INVESTMENT NOR AID A SUBSTITUTE FOR SOUND LDC POLICIES. RECO 2, P. 21: MAKES GOOD SENSE BUT HARD TO IMPLEMENT. RECO 3, P.21: PERHAPS ONLY PROPOSALS FOR MAJOR FOREIGN INVESTMENTS MIGHT BE REVIEWED. RECO 4, P. 21: CANADA ENDORSES. RECO 5, P. 21: RENEGOTIATION OF CONTRACTS "PERHAPS IMPRACTICAL". RECO 6, P. 22: HOST COUNTRIES MUST ENSURE THAT FUNDS CHANNELLED TO INCREASED OWNERSHIP IS EFFECTIVE USE OF SCARCE RESOURCES. RECO 7, P. 23: CANADA OPPOSES, SINCE IT RESERVES RIGHT TO APPLY DIFFERENT RULES TO MNCS FROM THOSE APPLIED TO INDIGENOUS CORPS. RECO 8, P. 25: MAKES GOOD SENSE, PROVIDED IT APPLIES ONLY TO MNCS AND NOT TO CARTELS OR PRODUCERS ASSOCIATIONS. RECO 9, P. 29: CANADA ACCEPTS, SUBJECT TO NATIONAL AND PROVINCIAL LAW. RECO 10, P. 29: ACCEPTS. RECO 11, P. 30: ACCEPTS. RECO 12, P. 31: TO BE TREATED CAUTIOUSLY, THIS RECO TO BE DEFERRED UNTIL UNCTAD CHARACTER COMPLETED. RECO 13, P. 32: ACCEPTS INTENT, BUT THIS RECO LACKS PRECISION. RECO 14, P. 33: ACCEPTS IN PRINCIPLE. RECO 15, P.33: THERE SHOULD BE A SECTORAL APPROACH TO TREATING EXTRATERRITORIALITY. RECO 16, P. 33: THIS OMNIBUS RECOMMENDATION SHOULD NOT BE CONSIDERED.

3. CANADIAN DEL THEN STATED THAT CHAPTERS 4 AND 5 OF REPORT POSE NO PROBLEMS FOR CANADA. CHAPTER 6 SUGGESTS GROUP HAD LIMITED UNDERSTANDING OF HOW TECHNOLOGY IS DEVELOPED AND EXCHANGED. CHAPTER 7 REQUIRES MORE CAREFUL RESEARCH. CHAPTER 8: CAPACITY TO ENFORCE ITS RECOMMENDATIONS IS DOUBTED. CHAPTER 9: BROAD THRUST HAS CANADIAN SUPPORT. CHAPTER 10: DOUBTFUL ABOUT CHANCES OF GRAPPLING SUCCESSFULLY WITH TRANSFER PRICING. CHAPTER 11: BETTER TO PURSUE BILATERAL TAX TREATIES. CHAPTER 12: PRINCIPLE OF DISCLOSURE IS ATTRACTIVE, BUT ITS IMPLEMENTATION REQUIRES STUDY. CONFIDENTIALITY A GENUINE PROBLEM. BEFORE DATA IS SOUGHT, ITS REAL PURPOSE MUST BE ESTABLISHED.

4. ITALY STATED THAT REPORT OF GROUP OF EMINENT PERSONS UNCLASSIFIED

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SONS SHOULD HAVE MORE ADEQUATELY SET OUT BENEFITS OF OPERATIONS OF MNCS TO HOST COUNTRIES. OCCASIONAL MIS-BEHAVIOR OF MNCS NOT DIFFERENT FROM THAT OF NATIONAL CORPS OF OTHER BODIES. ITALY OPEN-MINDED ON MACHINERY; CAN AGREE TO A COMMISSION ON MNCS. ITS TERMS OF REFERENCE ARE KEY. A CODE OF CONDUCT, CONCEIVED AS GUIDELINES, COULD BE USEFUL.

5. JAPAN DECLARED THAT INTERNATIONAL INVESTMENT IS MAKING GREAT CONTRIBUTION TO WORLD DEVELOPMENT. MNCS AS SUCH NOT HARMFUL TO INTERESTS OF HOST COUNTRIES. UN SHOULD CONCENTRATE ON MNC ROLE IN LDCS TO AVOID OVERLAP WITH OECD WORK. IT IS PREMATURE NOW TO CONSIDER WHETHER THERE SHOULD BE TREATIES GOVERNING MNCS.

6. UK SAW REPORT AS A USEFUL FIRST STEP. IT COULD NOT NOW BE CONSIDERED IN DEPTH. UK DID NOT AGREE WITH ALL OF ITS RECOMMENDATIONS. IT DOUBTED VALUE OF ANNUAL CONSIDERATION OF MNCS BY ECOSOC. WHILE FAVORING A RESEARCH AND INFORMATION CENTER, IT WONDERED WHETHER ANY TECHNICAL ASSISTANCE ROLE IN THIS SPHERE SHOULD NOT BE LEFT TO UNDP AND UNIDO. UK FAVORS A COMMISSION ON MNCS. IT COULD BE EXPERT AND STILL COMPOSED OF GOVERNMENTAL REPRESENTATIVES. TOO AMBITIOUS A WORK PROGRAM SHOULD BE AVOIDED. A CODE OF CONDUCT OF MORAL FORCE MIGHT BE CONSIDERED; THE ICC HAD PROVIDED A BASIS. IF THERE WERE NOT AGREEMENT IN THIS COMMITTEE ON PROCEDURES AND MACHINERY, PERHAPS AN AD HOC GROUP TO CONSIDER SUCH QUESTIONS SHOULD BE ESTABLISHED.

7. MEXICO SUPPORTED UN AFFORDING TECHNICAL ASSISTANCE TO LDCS IN THEIR NEGOTIATIONS WITH MNCS, AVOIDANCE OF DIPLOMATIC PRESSURE ON BEHALF OF MNCS, ESPECIALLY WHEN EXERTED THROUGH INTERNATIONAL AGENCIES, AND FAVORED COMMISSION ON MNCS, INFORMATION CENTER, AND ANNUAL ECOSOC CONSIDERATION.

8. USDEL, AFTER EXPRESSING APPRECIATION FOR IMPROTANT AND PIONEERING REPORT OF EMINENT PERSONS, AND FOR COGENT COMMENTS OF MEMBERS OF GROUP, STATED THAT IT HAD SERIOUS RESERVATIONS ABOUT ELEMENTS OF REPORT. HOWEVER, IT WISHED UNCLASSIFIED

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TO DEFER COMMENTS ON ITS SUBSTANCE. IT FAVORED CONTINUED CONCERN OF UN WITH MNCS AND WITH PROBLEMS OF FOREIGN INVESTMENT IN GENERAL, OF WHICH MNCS A NOT NECESSARILY DISTINCTIVE ASPECT. ECOSOC SHOULD BE A CENTRAL ORGAN OF SUCH CONTINUING CONCERN. BUT ECOSOC SHOULD ADDRESS MNCS AND BROADER PROBLEMS OF FOREIGN INVESTMENT ONLY WHEN DEVELOPMENTS WARRANT, NOT NECESSARILY ANNUALLY. USG IN PRINCIPLE FAVORS A COMMISSION ON MNCS AND FOREIGN INVESTMENT. ITS WORK SHOULD EVOLVE GRADUALLY AND BE COORDINATED WITH OTHER UN AGENCIES, NOT DUPLICATING WORK SUCH AS THAT OF UNCITRAL. THE NAME AND TERMS OF REFERENCE OF COMMISSION SHOULD REFLECT REPORT'S EMPHASIS UPON DEVELOPMENT PROCESS AND EN-COMPASS FULL RANGE OF INVESTMENT PROBLEMS. IF THE COMMISSION TO BE COMPOSED OF PRIVATE INDIVIDUALS RATHER THAN GOVERNMENTAL REPRESENTATIVES, ITS MANDATE SHOULD BE CON-

STRICTED ACCORDINGLY (ARGUMENTATION SET OUT IN STATE'S 154784 WAS DRAWN UPON). SUCH A COMMISSION SHOULD BE ADVISORY. IT WAS PREMATURE AT THIS TIME TO ACCEPT NEED OR FEASIBILITY OF CODE OF CONDUCT, STILL LESS OF TREATIES IN THIS SPHERE. USG SUPPORTS ESTABLISHMENT OF APPROPRIATE CENTER WITHIN SECRETARIAT, TO WORK UNDER THE COMMISSION'S DIRECTION (IF, AT ANY RATE, COMMISSION IS GOVERNMENTAL IN COMPOSITION). BUT BEFORE SUCH A CENTER COULD BE SET UP, CAREFUL CONSIDERATION SHOULD BE GIVEN TO WHAT INFORMATION IS NEEDED, FOR WHAT PURPOSES, AND TO HOW IT CAN BE COLLECTED AND USED. TECHNICAL ASSISTANCE SHOULD BE CARRIED OUT THROUGH UNDP AND UNIDO AND NOT EMBRACE NEGOTIATIONS BETWEEN MNCS AND HOST COUNTRIES. IN VIEW OF DIFFERENCES ON MACHINERY AND PROCEDURES IN PROPOSALS ADVANCED BY GROUP AND BY SYG ON ONE HAND, AND IN FOREGOING SUGGESTIONS ON OTHER, USDEL PROPOSED MEASURED APPROACH SET OUT IN ITS DRAFT RESOLUTION. SUGGESTION OF UKDEL THAT COUNCIL MIGHT ESTABLISH AN AD HOC COMMITTEE TO CONSIDER OPTIMUM MACHINERY AND PROCEDURES AND REPORT BACK WAS ATTRACTIVE.

9. FINLAND, GENERALLY PRAISING REPORT, STATED THAT IT WAS INADEQUATE IN TREATING ROLE OF MNCS IN DEVELOPED COUNTRIES.

10. LONG LIST OF LDCS SCHEDULED TO ADDRESS COMMITTEE
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JULY 19.

11. IN CONVERSATION WITH USDEL, ALGERIAN REP INDICATED SYMPATHY WITH APPROACH OF US RESOLUTION, SAYING ALGERIA SAW NO NEED FOR HURRIED ACTION. THERE ARE OTHER SIGNS THAT U.S. RESOLUTION IS ATTRACTIVE TO SOME LDCS. WE HAVE PASSED THIS ON TO CANADIANS.

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NNN

Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: SUBSIDIARIES, CONSULTANTS, MEETINGS, FOREIGN INVESTMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 19 JUL 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974GENEVA04607
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740195-0022
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740735/aaaabdz.tel
Line Count: 209
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION IO
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: shawdg
Review Comment: n/a
Review Content Flags:
Review Date: 28 OCT 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <28 OCT 2002 by ThomasVJ>; APPROVED <22 JAN 2003 by shawdg>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: 57TH ECOSOC: CONSIDERATION BY ECOSOC OF EMINENT PERSONS REPORT
TAGS: EGEN, ECOSOC, UN
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005